IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2989/2002

RAJESH SHARMA Vs. THE UNIVERSITY OF RAJASTHAN & ANR.

Date: 24.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Akhil Simlote for the petitioner.
Mr. Inder Raj Saini for the respondents.

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Vide order/letter impugned dated 16.02.2002 (Annexure-6), the Controller of Examination, University of Rajasthan, has informed the petitioner that due to computer fault, he was declared pass, but in fact the petitioner is not able to secure 48% marks, which are necessary to award LL.B. Degree.

Challenging the aforesaid impugned order dated 16.02.2002, the learned counsel for the petitioner submits that the provisions of Ordinance 163 are not applicable to the petitioner as the petitioner appeared as regular student and Ordinance 163 only applicable to the ex-students, therefore, considering this analogy, the result of the petitioner has been changed exercising power under Ordinance 169(H) and informed the petitioner vide order impugned Annexure-6 dated

16.02.2002.

The respondents in their reply have submitted that in paper 1.3 in Law of Tort and Consumer, the petitioner secured 57 marks as Vth special attempt was given to clear the due examination in July, 2001 and as per the Ordinance 163(ii), only 48% marks are to be counted.

Having gone through the Ordinance 163, it is no doubt that this Ordinance is applicable to the ex-students and the learned counsel appearing for the respondents is not able to make out whether the petitioner appeared as ex-student or regular student, whereas the learned counsel for the petitioner submits that the petitioner appeared as regular student and special chance was provided to him to clear the due papers in Vth attempt.

I have heard rival submissions of the respective parties and have also gone through the impugned order 16.02.2002 (Annexure-6) as also the relevant Ordinance referred before me.

The respondents have not given clear reply whether the petitioner appeared as ex-student or regular student and as to how Ordinance 163 is applicable to the instant case, therefore, in the interest of justice, I deem it proper to give an

opportunity to the petitioner to represent before the respondent University and the respondents are expected to consider the representation, so filed by the petitioner, and shall pass order considering whether the petitioner appeared as ex-student or regular student to avail the special chance to clear the due papers of LL.B in Vth attempt.

But since several disputed questions of facts have been raised here in this writ petition, I do not want to interfere in such matters except to give opportunity to the petitioner to represent before the University of Rajasthan, as discussed herein above.

With these observations, the writ petition stands disposed of.

The ex parte interim order dated 10.05.2002 granted by this Court shall remain operative till the representation so filed by the petitioner is decided. The petitioner is directed to file representation within 15 days from the date of passing of this order.

The stay application also stands disposed of.

(K.S. RATHORE),J.

/KKC/